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Attorneys for Plaintiff
Novoluto GmbH

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
EUGENE DIVISION

NOVOLUTO GMBH, a German company,

Plaintiff,

v.

**UCCELLINI INC. D/B/A LORA
DICARLO**, a Delaware corporation,

Defendant.

Civil Case No.: 6:20-cv-02284-MK

**NOVOLUTO GMBH'S RESPONSE TO
ORDER TO SHOW CAUSE**

NOVOLUTO GMBH'S RESPONSE TO ORDER TO SHOW CAUSE

Plaintiff Novoluto GmbH ("Plaintiff" or "Novoluto") files this response to this Court's Order to Show Cause (ECF No. 69).

In the April 28 Order to Show Cause the Court refers to its prior Order (ECF No. 68) granting Novoluto's motion for leave to file a motion for default judgment and states that "Plaintiff's motion for default judgment was due 4/13/2023." That prior Order (ECF No. 68), however, says: "***After seven days from the entry of this order, Plaintiff has leave to file*** a motion for default judgment in compliance with Rule 55(b)(2) of the Federal Rules of Civil Procedure" (emphasis added). Novoluto therefore interpreted that prior Order as setting April 13, 2023 – that is, 7 days after entry of ECF No. 68 – as the *earliest* date on which Novoluto's motion for default judgment could be filed, not the last. Novoluto did not interpret that order as setting any deadline for Novoluto to file its motion for default judgment.

Novoluto respectfully submits that its interpretation of the prior Order (ECF No. 68) was reasonable, as it seems unlikely that that the Court would have required Novoluto to file its motion for default judgment during the same 7-day period the Court afforded Defendant to set aside the clerk's April 6 entry of default. The dates set forth in the prior Order were reasonably understood to be a practical way to spare the court record (and substantial effort by Novoluto) in the event that Defendant had a change of position and decided to appear through counsel in those 7 days after the clerk's entry of default. Accordingly, it is respectfully urged that Novoluto's understanding and interpretation of ECF No. 68 was reasonable, and that Novoluto had no reason to believe that its motion for default judgment was due by April 13, 2023.

Novoluto has been working diligently towards the filing of its well-supported motion for default judgment, including the appropriate factual support required to support a judgment of patent infringement and a substantial 7-figure damages award for that infringement. At minimum, a report prepared by Novoluto's retained damages expert will be filed in support of the motion.

CONCLUSION

In view of the Court's clear desire to move this matter to its conclusion, Novoluto respectfully requests that the Court now set a deadline of Friday, May 26, 2023, for the filing of Novoluto's well-supported motion for default judgment, or any other date of the Court's choosing that gives Novoluto sufficient time to complete and file its motion and supporting papers.

DATED: May 2, 2023

Respectfully submitted,

By: /s/ Peter C. Schechter

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served by Federal Express courier on Unisearch, Inc., 800 North State Street, Suite 403, Dover, DE 19901, the Delaware registered agent of Defendant Uccellini Inc., and on counsel of record via the Electronic Case Filing system of the Court, on this 2nd day of May 2023.

/s/ Peter C. Schechter